IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.2370 OF 2005

Office Notes,Office Memoranda of Coram, appearances, Court's order or directions and Registrar's orders.	Court's or Judge's orders.

Mr.S.S.Sakhare for the Petitioner.
Mr.Pankaj J.Das for the Respondent.

CORAM : SMT.NISHITA MHATRE, J.

DATED : 12TH JULY 2005

P.C. :

. The impugned order permits the Respondent-Anil Ramesh Vaidya to be added as party-Defendant in place of his father who expired during the pendency of the Appeal. The contention raised by the Petitioner is that the Respondent cannot be considered to have been in business along with his father in the suit premises and, therefore, cannot be deemed to be a tenant of the suit premises.

2. Merely by adding the Respondent as the Defendant due to the death of

his father, the original tenant, would not necessarily mean that he is a tenant within the meaning of Section 5(11)(c). The Court will decide as to whether the Respondent is entitled to the protection under the Rent Act. In such circumstances, the order impugned is modified to the extent that the Respondent-Anil Ramesh Vaidya though substituted as Appellant will have to establish that he is entitled to the protection of the Rent Act.

3. Writ Petition disposed of accordingly.